

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

IN THE MATTER OF:) Case No: B-1081327 C-13D
HOLLIS D. BROOMES,)
DELORES BROOMES,)
)
Debtor(s))

)

OBJECTION BY STANDING TRUSTEE TO CONFIRMATION OF PLAN

NOW COMES Richard M. Hutson, II, Standing Trustee (“Trustee”) and respectfully objects to confirmation of the Debtors’ plan pursuant to 11 U.S.C. §1325 and shows unto the Court the following:

1. The Debtors filed a petition under Title 11 of the United States Code, Chapter 13, on July 28, 2010, in the United States Bankruptcy Court for the Middle District of North Carolina.
2. On July 28, 2010, Richard M. Hutson, II, was appointed as Trustee.
3. This Court has proper and personal jurisdiction of the subject matter hereof and over the parties pursuant to 28 U.S.C. §§151, 157 and 1334, and the Standing Order entered by the United States District Court for the Middle District of North Carolina and this is a core proceeding within 28 U.S.C. §157(b).
4. The petition filed by the Debtors proposes a monthly plan payment of \$2,190.00 per month for a period of 60 months. Unsecured creditors will not receive any dividend. There is approximately \$92,602.03 of unsecured debt listed in Schedule “F” consisting primarily of a student loan to AES Federal Loans.
5. The Debtors’ plan provides that the claim of Wells Fargo Home Mortgage (“Wells Fargo”) secured by a deed of trust on the Debtors’ residential real property located at 508 Maymount Court, Durham, NC (“the real property”) shall be paid as a long-term, continuing debt in monthly installments of \$1,642.33 and a secured arrearage claim for delinquent payments through November of 2010 in the amount of \$24,499.62 payable in installments of \$441.70 per month.
6. Additionally, the Debtors’ plan provides for the payment of a secured claim with Santander Consumer (“Santander”) on a 2009 Chrysler in the amount of \$15,015.42 with interest at the rate of 5.25% per annum in monthly installments of \$290.00.

7. The Trustee objects to confirmation of the plan in that the Debtors' proposed plan payments are not sufficient to satisfy the long-term debt claim of Wells Fargo, the arrearage claim of Wells Fargo, the secured claim of Santander, and all other secured or priority claims within the 60 month time limitation of 11 U.S.C. §1322(d).

WHEREFORE, the Trustee prays the Court for an Order as follows:

1. That the Debtors' plan not be confirmed in that the plan does not comply with 11 U.S.C. §1325 and the case be dismissed for cause pursuant to 11 U.S.C. §1307; or
2. For such other and further relief as the Court may deem just or proper.

This the 29th day of September, 2010.

/s/ Benjamin E. Lovell
Benjamin E. Lovell
Attorney for the Trustee
State Bar No: 23266
P.O. Box 3613
Durham, N.C. 27702

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing document upon John T. Orcutt, Esq., 6616-203 Six Forks Rd., Raleigh, NC 27615, Hollis and Dolores Broomes, 508 Maymount Dr., Durham, NC 27703, and Michael D. West, Esq., U.S. Bankruptcy Administrator, PO Box 1828, Greensboro, NC 27402 by depositing a copy of same in the United States Mail, postage prepaid, and in the manner prescribed by Rule 5 of the Federal Rules of Civil Procedure.

This 29th day of September, 2010.

s/Benjamin E. Lovell
Benjamin E. Lovell, Esq.
Attorney for the Standing Trustee